

REMARKS

Reconsideration of this application, as amended, is respectfully requested. The following remarks are responsive to the Office Action mailed March 6, 2003.

Amendment of Claims

Claims 1 and 9 have been amended to include subject matter corresponding substantially to that of cancelled claim 14, placing the claims 1 and 9 in condition for allowance.

Claims 21-23 have been cancelled.

Response to Claim Rejections – 35 USC § 103

Claims 1, 2, 9-11, and 21-23 stand rejected under 35 U.S.C. 103(a) as being unpatenable over U.S. Patent No. 6,167,423 (hereinafter Chopra) in view of U.S. Patent No. 6,269,390 (hereinafter Boland).

Claims 3 and 16 stand rejected under 35 U.S.C. 103(a) as being unpatenable over Chopra in view of Boland in further view U.S. Patent No. 6,314,089 (hereinafter Szlam).

Claims 4, 12, 13, 17, and 21-23 stand rejected under 35 U.S.C. 103(a) as being unpatenable over Chopra in view of Boland in further view of U.S. Patent No. 5,327,557 (hereinafter Emmond).

Claim 5 stands rejected under 35 U.S.C. 103(a) as being unpatenable over Chopra in view of Boland in further view of U.S. Patent No. 6,222,530 (hereinafter Sequeira).

Claims 7, 8, 19, and 20 stand rejected under 35 U.S.C. 103(a) as being unpatenable over Chopra in view of Boland in further view of U.S. Patent No. 6,223,207 (hereinafter Lucovsky).

Claims 14 and 15 stand rejected under 35 U.S.C. 103(a) as being unpatenable over Chopra in view of Boland in further view of Emmond in further view of Sequeira.

Applicants submit that the rejections of claims 1-3, 9-11, 16, 4, 12, 13, 17, 21-23, 5, 7, 8, 19, 20, 14 and 15 under 35 U.S.C. § 103(a) are groundless for the reason that the prior art references when combined do not teach or suggest all of the claim limitations of the independent claims of the present application.

To establish a **prima facie** case of **obviousness**, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Cancelled claim 14 included the following limitation:

wherein the scheduler issues the task from the task queue according to a priority dynamically assigned to the task.

The Office Action, in rejecting claim 14, contends that the above limitation is anticipated by the following disclosure in Sequeira:

Master Scheduler 120 processes the schedule created by the programmer using Service Specific GUI 110 and generates tasks. Tasks are commands which instruct Media Server 130 to perform an action, such as Initialize or Play. These tasks are then distributed to Slave Task Scheduler 140 in Media Server 130. In accordance with one aspect of the invention, tasks can be distributed months, even years ahead of schedule. Alternatively the tasks can be distributed in "real-time," as long as the distribution is sufficiently prior to the scheduled task to permit Slave Task Scheduler 140 to account for any delta variance.

Col. 5, lines 46-56.

The above quote from Sequeira describes a Master Scheduler 120 that distributes tasks to the Slave Task Scheduler 140. The Master Scheduler 120 may distribute a task ahead of schedule or sufficiently prior to schedule (e.g., to account for “delta variance” described at Col. 4, lines 39-56).

Claim 14 required a method whereby a scheduler issues the task from the task queue according to a priority that is dynamically assigned to the task. For example, an algorithm within a scheduler may identify that a task is a “BestMatch” with a thread that becomes available. The scheduler may then ensure that the identified task is assigned to the available thread by dynamically assigning a “real time” priority to the task (Application, page 20, lines 9-12). In contrast, the above quote from Sequeira describes a Master Scheduler that distributes a task without providing a rationale for distribution. Indeed, the above quote describes a Master Scheduler that may distribute the task ahead of schedule or sufficiently prior to schedule but does not describe how the Master Scheduler distinguishes between the alternatives. Moreover, the above quote does not describe a task priority much less one that is dynamically assigned to a task. Sequeira therefore cannot be said to anticipate the above quoted limitation because Sequeira describes the distribution of a task without providing a rationale for distribution and claim 14 required the distribution of a task from a task queue according to a priority that is dynamically assigned to the task.

Independent claims 1 and 9 have been amended to include a limitation corresponding substantially to the above-discussed limitation of claim 14. The above

remarks are accordingly also applicable to a consideration of independent claims 1 and 9.

In summary, Chopra in combination with Boland, Emmond and Sequeira do not teach or suggest each and every limitation of amended claims 1 and 9 as required to support rejection of these independent claims of the present application under 35 U.S.C. § 103.

In addition, if an independent claim is nonobvious under 35 U.S.C. § 103(a) then, any claim depending therefrom is nonobvious and the rejections of claims 2-5, 7-8, 10-13, 15-17 and 19-20 under 35 U.S.C. § 103(a) are also addressed by the above remarks.

In summary, Applicants believe that all rejections presented in the Office Action have been fully addressed and withdrawal of these rejections is respectfully requested. Applicants furthermore believe that all claims are now in a condition for allowance, which is earnestly solicited.

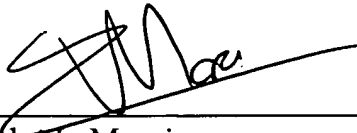
If the Examiner believes a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact André L. Marais at (408) 947-8200 x204.

If there are any additional charges, please charge them to Deposit Account No. 02-2666.

Respectfully submitted,

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